

REMARKS

Claims 1-6 are all the claims pending in the application.

Referring to Paragraph No. 1 at page 3 of the Office Action, claims 1, 5 and 6 are **provisionally** rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 4 and 7 of copending Application No. 10/594,451.

Applicants respectfully request the Examiner to defer the provisional obviousness-type double patenting rejection in the present application and, instead, issue the same in the copending '451 application if the present application is otherwise in condition for allowance prior to the copending '451 application being in condition for allowance.

Referring to Paragraph No. 2 at page 5 of the Office Action, claims 1-6 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0173256 ("Fujikawa").

The Examiner states that Fujikawa constitutes prior art only under 35 U.S.C. § 102(e). With due respect, this is not correct. Fujikawa is a National Stage entry of PCT/JP02/06116. Fujikawa is not entitled to a 35 U.S.C. § 102(e) date since the Fujikawa PCT application was not published in English. Thus, Fujikawa has no § 102(e) date.

However, Fujikawa is § 102(a) prior art as of its publication date of September 18, 2003. Fujikawa's § 102(a) date is later in time than the earlier of Applicants' two priority dates, namely, December 18, 2002, based on Japanese Application No. JP 2002-366916.

Therefore, without acquiescence in the merits of the rejection, to advance prosecution, Applicants file herewith a verified English translation of the earlier of their two priority documents (JP 2002-366916) to perfect their claim to priority and remove Fujikawa as a § 102(a) prior art reference.

For the Examiner's convenience, § 112 support for the rejected claims in Applicants' priority document is shown in the table set forth below:

Claim	§ 112 Support in Priority Document (JP 2002-366916)
1	Claim 1; page 25, [0021]; page 28, [0022]; page 34, [0030]
2	Claim 2
3	Claim 3
4	Claim 4
5	Claim 5; page 25, [0021]; page 28, [0022]; page 34, [0030]
6	Claim 6

In view of the above, withdrawal of the § 103 rejection of claims 1-6 based on Fujikawa is respectfully requested.

Applicants note that the WO publication of the Fujikawa PCT application PCT/JP02/06116, namely, WO 03/000410 A1 published January 3, 2003, is also removed as §102(a) prior art in view of Applicants perfecting their claim to priority.

Accordingly, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett S. Sylvester", written over a horizontal line.

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